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Fifty-first session

SUMMARY RECORD OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 24 February 1995, at 3 p.m.

Chairman: Mr.BIN HITAM (Malaysia)

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The meeting was called to order at 3.15 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (agenda item 7) (continued) (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56 chap. I, sect. A, draft resolution IV and sect. B, draft decision 11)

Draft resolution on promoting the realization of the right to adequate housing (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, sect. A, draft resolution IV)

Draft decision on human rights and income distribution (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, sect. B, draft decision 11)

1. Mr. van WULFFTEN PALTHE (Netherlands) said that, although more time was needed for consultations on draft resolution IV, there seemed to be an agreement that the question should be dealt with under agenda item 7 rather than agenda item 19.

2. Mr. PORTALES (Chile), supported by Mr. PEREZ NOVOA (Cuba), said that his delegation had sponsored draft resolution E/CN.4/1995/L.25, that had recently been adopted, on the understanding that its paragraph 8 did not mean that the Commission was taking action on the Sub-Commission's decision (in draft decision 11) to appoint a special rapporteur on human rights and income distribution. Furthermore, paragraph 8 contained a recommendation that that mandate be carried out in the light of the conclusions of the study on human rights and extreme poverty, which was clearly conducted under another mandate, namely, the question of human rights and extreme poverty.

3. Sub-Commission decision 11 would have been superseded by the draft resolution only if the latter, taking note of the proposal of the Sub-Commission, had approved or refused the appointment of a special rapporteur on income distribution, which clearly had not been the case. Consequently, the interpretation according to which paragraph 8 of the draft resolution annulled the decision of the Sub-Commission to appoint a special rapporteur was unacceptable. From a procedural point of view, that material should be resolved independently of the adoption of the draft resolution, and the Commission should therefore consider draft decision 11 separately.

4. Mr. HAREL (France) said that he saw no incompatibility: in accordance with the interpretation provided earlier by the Secretariat, paragraph 8 of the draft resolution noted the appointment of a special rapporteur and took precedence over Sub-Commission decision 11, replacing it. That did not mean, however, that it called the Sub-Commission's decision into question or required further consideration of the draft decision under item 19. It simply put it into perspective with the study being conducted on extreme poverty.

5. After a procedural discussion, in which Mr. PEREZ NOVOA (Cuba), Mr. GRILLO (Colombia) and Mr. PORTALES (Chile) took part, it was decided to defer consideration of draft resolution IV and draft decision 11 recommended by the Sub-Commission pending further consultations.

6. Mr. van WULFFTEN PALTHE (Netherlands) said that, after consultations, it had been agreed that paragraphs 3 and 4 (b) of draft resolution IV, as recommended by the Sub-Commission, should be deleted. In that amended form, the draft resolution could be adopted without a vote.

7. Mr. PEREZ NOVOA (Cuba) said that, while his delegation would have liked the proposal for an expert seminar contained in paragraph 4 (b) to have been adopted, it had, in the interests of reaching a consensus, decided not to insist. Nevertheless, in view of the fact that a world conference on human settlements was scheduled for 1996, the Commission should focus on that issue at its next session.

8. Draft resolution IV, as orally amended, was adopted without a vote.

9. Mr. LILLO (Chile) said that, after consultations, it had been decided that draft decision 11 as recommended by the Sub-Commission, should be amended by the insertion between the words "taking also into account" and the words "matters related to the realization of the right to development", the words "the preliminary and final reports of the Special Rapporteur of the Sub-Commission on human rights and extreme poverty and".

10. Draft decision 11 as orally amended, was adopted without a vote.

11. Mr. MAUBERT (France), speaking on behalf of the European Union in explanation of its members' vote on draft resolution E/CN.4/1995/L.18/Rev.1, said that, while it had always contributed constructively to the debate on economic, social and cultural rights, especially the right to development, the European Union felt that the debate on the draft resolution had not been such as to promote the necessary consensus on the implementation of the Declaration on the Right to Development. Moreover, the new provisions contained in the text seemed largely to fall outside the mandate of the Commission.

12. Lastly, the provisions of its paragraph 14 did not take account of the broad process of evaluation that was currently under way. It was especially regrettable that, given the limited resources of the Centre for Human Rights, the Commission seemed to be ignoring a process that it was encouraging elsewhere.

13. Mr. MARUYAMA (Japan), explaining his delegation's vote on draft resolution E/CN.4/1995/L.18/Rev.1, said that his Government had extended various forms of assistance to heavily indebted countries in the past, and would continue to do so. His delegation regretted, however, that the draft resolution not only failed to reflect the agreed language on the topic contained in paragraph 12 of the Vienna Declaration, but also attempted to introduce new ideas, linking the problem of foreign debt with human rights

questions in order to alleviate the debt burden. His Government had difficulty in accepting that idea, and he had therefore voted against the draft resolution.

14. The CHAIRMAN said the Commission had thus completed its consideration of agenda item 7.

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1995/L.27)

Draft resolution on the right to development (E/CN.4/1995/L.27)

15. Mr. BROTODININGRAT (Indonesia) introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Algeria, Angola, Cameroon, Côte d'Ivoire, Ecuador, El Salvador, Guinea-Bissau, Mauritania, Mexico, Peru, Venezuela and Zimbabwe and the observers for Afghanistan, Haiti, Libyan Arab Jamahiriya, Mongolia, Senegal, Singapore, Thailand and the United Republic of Tanzania, said that it was intended to build upon the resolution on the same subject adopted at the Commission's fiftieth session of the Commission.

16. He reviewed the main points of the draft resolution, which had been the subject of intensive consultations among many delegations, and expressed the hope that it would receive the widest possible support.

17. Mr. ELKARIB (Sudan), noting that his delegation had been a member of the Commission for the past two years, said that the asterisk next to his country's name should be deleted.

18. Mr. HAREL (France) said that the text of the draft resolution was premature. While his Government had always supported the right to development, a greater effort should have been made to maintain the consensus that had emerged at the World Conference on Human Rights. It was not clear why it was deemed necessary to put the draft resolution to the vote at the current stage. Its short-sighted text might well damage the cause of the right to development.

19. Mr. PETROV (Bulgaria) said that he agreed with the previous speaker. Although it had actively promoted the issue in the Working Group on the Right to Development, his delegation would vote against the draft resolution because it could not accept the outright refusal to hold any further negotiations on its text. Given the highly topical nature of the subject-matter, such a draft resolution must be adopted by consensus, because the realization of those rights presupposed a universal approach. Moreover, the draft resolution unjustifiably extended the mandate and prejudged the results of the Working Group.

20. Mr. STROHAL (Austria) said he was surprised that the Commission was already taking action on the draft resolution. The Commission should seek to preserve the consensus reached at the Vienna Conference and reaffirmed at two successive sessions of the General Assembly.

21. Mr. ROSENGARTEN (Germany) said that, despite its strong commitment to the right to development, his delegation would also vote against the draft resolution. His Government had welcomed the consensus reached at the Vienna Conference and had supported the activities of the Working Group. However, his delegation had reservations concerning the text of the draft resolution, which sought to anticipate the results of deliberations in the Working Group.

22. Moreover, before setting up the mechanism to which reference was made in paragraph 2, the Working Group had to study the question in accordance with its mandate. Paragraph 5 enlarged the mandate of the Working Group, authorizing it to make recommendations on global economic policy which were not within the scope of human rights and should be dealt with elsewhere. It was to be hoped that a consensus could be found on the right to development at the Commission's next session.

23. Mr. KORHONEN (Finland) said that his delegation wished to add its voice to the appeals for a consensus, towards which it was prepared to work if the possibility presented itself.

24. Mr. KUZNIAR (Poland) said that his delegation concurred with the remarks of the previous speakers. While ready to work to improve the text, it would vote against it in its current form.

25. Mr. VERGNE SABOIA (Brazil) said that his delegation attached great importance to the right to development and was prepared, if necessary, to vote in favour of the draft resolution. It was important, however, to maintain the consensus reached at the Vienna Conference, and his delegation therefore joined others in appealing for further attempts to overcome the obstacles to such a consensus that the current text continued to pose.

26. Mr. PEREZ NOVOA (Cuba) said that his delegation supported the draft resolution as presented. The non-aligned countries had always defended the right to development and had sought to adopt resolutions that enjoyed the full support of the international community. The Vienna consensus had been based upon the hope that all countries would fully support the right to development and work towards making it a reality. Yet, less than one year after the Vienna Conference, the Commission had, in 1994, been forced to put the resolution on that topic to the vote, despite protracted negotiations. To say that there had been a consensus on the subject since Vienna was therefore incorrect.

27. Despite the best efforts of the non-aligned countries to secure broad support for the draft resolution, basic differences on its substance remained as had been made clear in the statements by a number of speakers. A decision must therefore be taken on the text before the Commission and his delegation would vote in its favour.

28. Mr. MOLLER (Secretary of the Commission), stating the financial implications of the draft resolution in accordance with rule 28 of the Commission's rules of procedure, said that implementation of the requests contained therein would cost $71,300 in 1995. The temporary staff needed had

not been included in the preliminary estimates but would be considered within the overall staffing requirements of the Centre for Human Rights. A statement on the administrative and programme budget implications of the draft resolution would be submitted to the Economic and Social Council at its forthcoming session in the context of the Council's review of the Commission's report on its fifty-first session. The financial implications of the establishment of a focal unit within the Centre for Human Rights with the specific task of following up on the Declaration on the Right to Development and its implementation would be considered within the context of the review of the budget proposals submitted by the Centre for Human Rights.

29. Ms. FERRARO (United States of America), speaking in explanation of vote before the voting, said that her delegation had hoped that the spirit of cooperation and reasonableness which had characterized the negotiations in New York in 1994 would have continued to prevail during the Commission's discussions of the right to development and that it would have been able to join in a consensus on the draft resolution. However, while the 1986 Declaration on the Right to Development could be the starting point for discussions of that right, it was not the sole context in which to consider the meaning of the concept.

30. During the decade since the adoption of the Declaration, Member States had clarified the important relationship between democracy, development and human rights at the United Nations Conference on Environment and Development, the Vienna World Conference on Human Rights and the Cairo International Conference on Population and Development.

31. The call for the establishment of a permanent evaluation mechanism to follow up the implementation of the Declaration prejudged the final recommendations of the Working Group on the Right to Development and implied a higher legal status than the international community had thus far been willing to accord the concept of that right. While the right to development might be accurately characterized as the synthesis of many fundamental human rights, it could not be singled out as more important than all other individual rights.

32. States concerned about their development should make recognition and implementation of human rights in domestic law and practice their highest priority. In that way, individuals in all countries could reach their full human potential, as envisioned by the Universal Declaration of Human Rights.

33. Unfortunately, the Commission had wasted an opportunity to articulate some generally acceptable elements of the right to development and her delegation would therefore have to vote against the draft resolution.

34. Mr. KORHONEN (Finland) said that the realization of the important right to development required the collaborative efforts of all countries, particularly the developing countries. Moreover, the right to development had many different aspects, including human rights aspects. The draft resolution should thus not emphasize one particular aspect. Furthermore, it should not prejudge the recommendations of the Working Group in a manner which suggested

interference in its work. Unfortunately, the text before the Commission failed to meet those criteria and, given the unwillingness of the sponsors to make changes that would render the draft text more acceptable to all, his delegation would vote against the draft resolution.

35. Mr. LEGAULT (Canada) said that, although his delegation had supported the Declaration on the Right to Development and the resolution on the same subject adopted by the General Assembly at its forty-ninth session, it was unable to support the draft text currently before the Commission. A consensus might have been possible had the authors of the draft been willing to continue negotiations.

36. His delegation believed that the draft resolution on the right to development should take account of the human rights perspective and of the work of other human rights bodies. Moreover, the right to development could only be realized through a joint effort by both developing and developed countries. Unfortunately, the procedure to be adopted by the Commission did not represent a joint effort.

37. Mr. STROHAL (Austria) said that the right to development, to which his Government attached particular importance, concerned cooperation in the field of human rights aimed at enabling every human being and all peoples to participate in, contribute to, and enjoy economic, social, cultural and political development, and the realization of all human rights and fundamental freedoms. A resolution on cooperation in the field of human rights gained weight if it was adopted by consensus. His delegation had therefore hoped that, in the spirit of cooperation that had characterized the adoption of the Declaration on the Right to Development and of resolutions by both the Commission and the General Assembly, the Commission would continue to seek consensus in the preparation of a resolution on the right to development.

38. Together with a number of other interested delegations, it had presented comments and concerns to the sponsors of the draft resolution. Being forced to take immediate action on the draft was therefore a sad development, since informal consultations had shown that no unsurmountable differences existed if all the parties concerned were committed to constructive negotiations. It was thus unable to support the draft resolution in its current form.

39. Mr. STEEL (United Kingdom) said that his delegation's position on the draft resolution had been accurately reflected in the statements made by other members of the European Union, and by the representative of Finland in particular. His Government had hoped to move beyond the fragile consensus achieved at the previous session of the General Assembly to a broader consensus which would get things done. To be effective, development efforts must be collaborative and his Government was committed to that process. It would therefore be sad if the Commission failed to make a positive contribution in that regard.

40. Mr. MARUYAMA (Japan) said that his delegation regretted the Commission's failure to agree on a consensus text. It had particular difficulties with the seventh preambular paragraph and with paragraphs 2, 4, 5, 6 and 10 of the draft resolution. Accordingly, it would vote against it.

41. Ms. WENSLEY (Australia) said she regretted the Commission's failure to reach consensus on the draft resolution, particularly since consensus on the right to development had been achieved at the World Conference on Human Rights and at the forty-ninth session of the General Assembly. With more time, a consensus could have been achieved, since many delegations were desirous of doing so. Unfortunately, the Commission had been pushed to a precipitate vote and there was clearly a lack of will on the part of some to pursue efforts to reach agreement and to observe the established procedures of the Commission.

42. Her delegation had certain concerns about the language in the text relating to a permanent evaluation mechanism, the establishment of a focal unit in the Centre for Human Rights and a subprogramme in the Centre's activities to concentrate on the right to development. There was also a lack of balance in the language concerning the role of the Working Group on the Right to Development in relation to international economic issues, the effect of which was to prejudge the outcome of the Working Group's deliberations. Her delegation would therefore abstain during the vote.

43. Mr. TORELLA di ROMAGNANO (Italy) said he regretted the Commission's failure to reach consensus on the draft resolution. His delegation would vote against it for the reasons which had been already expressed by its partners in the European Union, and particularly the representative of France.

44. Mr. STOKVIS (Netherlands) said that his delegation had supported the consensus on the right to development at both the World Conference on Human Rights and the forty-ninth session of the General Assembly and had made every effort to achieve a consensus on the draft resolution currently before the Commission. It still had difficulties, however, with paragraphs 2, 5 and 10 of the text. In its view, the right to development would certainly not be furthered by the refusal to continue negotiations, and it would consequently vote against the draft resolution.

45. At the request of the representative of Finland, the vote was taken by roll-call.

46. Colombia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Bangladesh, Benin, Bhutan, Brazil, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea-Bissau, India, Indonesia, Malaysia, Mauritania, Mauritius, Mexico, Nepal, Nicaragua, Pakistan, Peru, Philippines, Republic of Korea, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Against: Austria, Bulgaria, Canada, Finland, France, Germany, Hungary, Italy, Japan, Netherlands, Poland, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia.

47. Draft resolution E/CN.4/1995/L.27 was adopted by 36 votes to 15, with 1 abstention.

48. The CHAIRMAN said that the Commission had thus concluded its consideration of agenda item 8.

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 17) (continued) (E/CN.4/1995/L.19 and L.20)

Draft resolution on the status of the International Covenants on Human Rights (E/CN.4/1995/L.19)

49. Mr. WILLE (Observer for Norway), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada, Ecuador, El Salvador, Guinea-Bissau, Mauritius and the Republic of Korea and the observers for Haiti, Iceland, Ireland, Latvia and Slovakia, reviewed the main points contained therein and said that he hoped it could be adopted by consensus.

50. Mrs. KSENTINI (Algeria) said that, had her delegation been consulted during the negotiations concerning the draft resolution, it would have proposed a number of amendments.

51. In the second preambular paragraph, the word "constitute" should be replaced by the words "were among", since other important international human rights treaties had been adopted prior to the adoption in 1966 of the International Covenants on Human Rights.

52. With regard to paragraph 9, each treaty body had its own legal regime and thus should not be required to respect the standards which had been defined for a different body. She therefore proposed the insertion of the word "various" before the words "other bodies" and the replacement of the words "respect these uniform standards" by the words "to define uniform standards".

53. In paragraph 12, the word "duly" should be deleted and the words "as appropriate" inserted after the word "account". Lastly, in paragraph 15, the phrase "to consider ways and means of assisting States parties" should be amended to read "to consider ways and means of responding to requests for assistance from States parties".

54. Mr. WILLE (Observer for Norway) said that the amendments proposed by the representative of Algeria were acceptable to the sponsors.

55. Mr. HYNES (Canada) said that it was both surprising and regrettable that, at such a late stage in the proceedings, the delegation of Algeria should have proposed amendments to paragraphs based on formulations that had been agreed upon by consensus the previous year. His delegation was, however, able to accept those amendments.

56. Mr. ELKARIB (Sudan) said he supported the Algerian amendments and also proposed that paragraph 6 be amended by inserting after the words "to review periodically any reservations made" the phrase "which are not in accordance with the object of the relevant treaty as stipulated in paragraph 5".

57. Mr. WILLE (Observer for Norway) said that he had been prepared, albeit with reluctance, to accept the Algerian amendments. However, in view of the further substantial amendment proposed by the delegation of the Sudan to what was essentially an update of the previous year's consensus text, he requested postponement of the consideration of the draft resolution pending further consultations with his co-sponsors.

58. Mr. van WULFFTEN PALTHE (Netherlands) said, in connection with the amendment proposed by the Sudanese delegation, that it was a basic principle of international law that any reservation that defeated the object and purpose of a convention was unacceptable. The proposed amendment was thus pointless. The purpose of paragraph 6 was to request States parties to review their reservations periodically in order to ascertain whether those reservations were still necessary.

59. The CHAIRMAN said he took it that the Commission wished briefly to postpone its consideration of draft resolution E/CN.4/1995/L.19 so that consultations could be held.

60. It was so agreed.

61. Mr. WILLE (Observer for Norway) said that it had been agreed, after consultations, that, in the second preambular paragraph, the words "the first" should be deleted. In paragraph 9, the word "appeals" should appear in the French version as "appels". In the fifth line of paragraph 9, the word "respect" should be replaced by "accept". In the second line of paragraph 15, after the word "Covenants", the words "with their agreement" should be inserted.

62. Draft resolution E/CN.4/1995/L.19 on the status of the International Covenants on Human Rights, as orally revised, was adopted.

Draft resolution on the succession of States in respect of international human rights treaties (E/CN.4/1995/L.20)

63. Mr. BOITCHENKO (Russian Federation), introducing draft resolution E/CN.4/1995/L.20 on behalf of its sponsors, which had been joined by the delegations of El Salvador, Guinea-Bissau and the Netherlands and the observer for Belgium, Greece and South Africa, said he hoped that it would be adopted by consensus.

64. The draft resolution on the succession of States in respect of international human rights treaties (E/CN.4/1995/L.20) was adopted without a vote.

65. The CHAIRMAN said that the Commission had thus concluded its consideration of agenda item 17.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 13) (continued) (E/CN.4/1995/L.15/Rev.1 and L.21)

Draft resolution on violence against women migrant workers (E/CN.4/1995/L.15/Rev.1)

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 13) (continued) (E/CN.4/1995/L.15/Rev.1 and L.21)

Draft resolution on violence against women migrant workers (E/CN.4/1995/L.15/Rev.1)

66. Ms. BAUTISTA (Philippines), introducing the draft resolution on behalf of its sponsors, said that migration, even on a large scale, was not a new phenomenon. Historical migratory movements had brought growth and prosperity to almost all countries. Some contemporary countries had been built by migrants, others were sources of migration. Migrant workers were more than just a commodity: they made a vital contribution to the economic and social life of the countries in which they lived and worked.

67. Particular attention should be given to women migrant workers, who were especially susceptible to abuse, as was pointed out in the seventh preambular paragraph of the draft resolution. Given the increasing number of reports and instances of violence against women in general, and against women migrant workers in particular, it was only right that the Commission should adopt a resolution on the question. The draft resolution in question resembled resolution 49/165 adopted by the General Assembly at its last session. The revised text was the result of intensive study and negotiation by interested delegations, including consultations with the Special Rapporteur on violence against women.

68. The sponsors wished to introduce one last revision of the text of the draft resolution: in paragraph 15, the final phrase, beginning "include her findings ...", should be replaced by the phrase "consider including her findings in her future reports." Her delegation hoped that, with that modification, the draft resolution could be adopted without a vote.

69. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Chile, Cuba, Ecuador, El Salvador and Nepal and the observer for Haiti had become sponsors of the draft resolution.

70. The draft resolution on violence against women migrant workers (E/CN.4/1995/L.15/Rev.1), as orally revised, was adopted without a vote.

71. Mr. GOMEZ ROBLEDO (Mexico), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Egypt and Guinea-Bissau and the observers for Haiti, Madagascar and Tunisia, said that the purpose of the draft text was to encourage States to sign, ratify or accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families so that the Convention could

enter into force as soon as possible. It called upon the Member States to regard the ratification of the Convention as a priority and requested the Secretary-General and United Nations and other organizations to help promote the Convention.

72. After lengthy negotiations, a balanced text had been achieved which would safeguard the rights of migrant workers and which, he hoped, would be adopted by consensus.

73. The draft resolution on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (E/CN.4/1995/L.21) was adopted.

74. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 13.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 22) (continued) (E/CN.4/1995/L.31)

Draft resolution on Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1995/L.31)

75. Mr. BIGGAR (Observer for Ireland), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of El Salvador, India, the Philippines and the Republic of Korea and by the observers for Cyprus, Greece, Latvia, Slovakia, and Slovenia, said that, like previous resolutions on the issue, the primary purpose of the draft resolution was to reaffirm the human right of freedom of thought, conscience, religion or belief, to express the international community's condemnation of continued violations of that right and to urge the adoption of measures to ensure the effective enjoyment of that right by all. He hoped it could be adopted by consensus.

76. Under paragraph 17 of the draft resolution, the Commission on Human Rights would extend for three years the mandate of the Special Rapporteur appointed to examine incidents and governmental action in all parts of the world which were inconsistent with the provisions of the Declaration and to recommend remedial measures. In that connection, the sponsors had decided to insert, in the second line of paragraph 18, after "continue to bear in mind", the words "in accordance with the relevant resolutions of the General Assembly and of the Commission on Human Rights concerning the work of thematic rapporteurs".

77. Mr. ZHANG Yishan (China) said that, according to paragraph 22 of the draft resolution, the Special Rapporteur would be submitting an interim report to the General Assembly at its fiftieth session and would also be submitting a report to the Commission on Human Rights at its fifty-second session. Under United Nations procedures, reports on human rights matters should be made directly to the Commission, which then reported to the Economic and Social Council, which in turn reported to the General Assembly. Moreover, printing, publication and distribution costs for reports were rather high and he

wondered whether it was really necessary for the Special Rapporteur to submit an interim report to the General Assembly; he also wished to know what the connection was between the interim report and the report to be submitted to the Commission.

78. Mr. BIGGAR (Observer for Ireland) said that, in its resolution 49/188 which had been adopted by consensus, the General Assembly had requested the Special Rapporteur to submit to it an interim report. Paragraph 22 of the draft resolution was simply giving effect to that request.

79. Ms. SABHARWAB (India) said that she would appreciate clarification concerning the revision of paragraph 18: and would like to know what the relevant resolutions to which the revision referred were?

80. Mr. ZHANG Yishan (China) said that, since the General Assembly had already requested an interim report in its resolution, there was no need to repeat the request in the draft resolution. He would still appreciate an explanation of the difference between the two reports referred to in the draft resolution.

81. Mr. BIGGAR (Observer for Ireland) said that the revision to paragraph 18 had been made at the request of various delegations which had wished to place the Special Rapporteur's activities firmly within the framework of the various guidelines already adopted by the General Assembly and the Commission on Human Rights.

82. The request by the General Assembly for an interim report from the Special Rapporteur was contained in its resolution 49/188, adopted by consensus. The Chinese delegation, by joining in that consensus had endorsed the request. He failed to see why the representative of China was currently questioning the need for the report.

83. Mr. MORA GODOY (Cuba) said that, since General Assembly resolution 49/181 had requested that all human rights bodies, special rapporteurs, experts and working groups should take into account the contents of the resolution, it was perfectly appropriate for the draft resolution to refer to the General Assembly resolution in question.

84. Mr. ZHANG Yishan (China) said that it had not been his intention to question the need for the two reports mentioned in draft resolution E/CN.4/1995/L.31 or to raise any objection to the contents of General Assembly resolutions. He had simply been requesting clarification with regard to the difference between the two reports.

85. He did, however, have serious reservations with regard to the proposed revision of paragraph 18. The addition of that wording would broaden the Special Rapporteur's mandate. His delegation had not been consulted on that matter and could not agree to the proposed modification.

86. Mr. BIGGAR (Observer for Ireland) said that the difference between the two reports was mainly one of timing. Because it considered human rights matters some eight months after the Commission's annual session, the General Assembly often found it useful to have an interim report with updated

information. That interim report was a preliminary version of the report that would subsequently be submitted to the Commission at its session in the following year.

87. The revision of paragraph 18 of the draft resolution was not intended to enlarge the mandate of the Special Rapporteur. Its purpose was to affirm that he must operate within the framework already decided upon by the Commission.

88. Mr. ZHANG Yishan (China) said that, while he was satisfied with the explanation concerning the difference between the two reports in question, he would prefer to omit the proposed modification to paragraph 18 of the draft resolution. The Special Rapporteur's mandate already implied that he would be operating within the agreed framework; there was no need to reiterate the point.

89. Mr. BIGGAR (Observer for Ireland) said that, after consultations, with his co-sponsors he was able to agree that the proposed revision of paragraph 18 of the draft resolution would be withdrawn.

90. Mr. MÖLLER (Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (human rights) of the current and forthcoming budget biennium and no additional resources would be needed.

91. The draft resolution on Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1995/L.31) was adopted.

92. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 22.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1995/2-E/CN.4/Sub.2/1995/56, chap. I, sect. B, draft decision 1; E/CN.4/1995/L.34)

Draft amendment to draft decision 1, recommended for adoption by the Sub-Commission (E/CN.4/1995/L.34)

93. Mr. PEREZ NOVOA (Cuba) said that his delegation had a second amendment to propose to draft decision 1, as recommended by the Sub-Commission, namely, that the words "endorses the recommendation of the Sub-Commission and suggests" be replaced by the word "recommends". The original Cuban amendment, as contained in document E/CN.4/1995/L.34 still stood.

94. Both the Cuban amendments were adopted.

95. Draft decision 1, recommended by the Sub-Commission, as amended, was adopted without a vote.

The meeting rose at 6.15 p.m.